

**IN THE UNITED STATES DISTRICT COURT
FOR THE SOUTHERN DISTRICT OF TEXAS
BROWNSVILLE DIVISION**

STATE OF TEXAS, ET AL.;)
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 Plaintiffs,)
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v.) Case No. 1:18-cv-00068
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UNITED STATES OF AMERICA, ET AL.;)
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 Defendants,)
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and)
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KARLA PEREZ, ET AL.;)
)
)
STATE OF NEW JERSEY,)
)
)
 Defendants-Intervenors.)
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)

PLAINTIFF STATES' MOTION FOR SUMMARY JUDGMENT

Pursuant to Federal Rule of Civil Procedure 56(a), Plaintiff States respectfully move the Court for summary judgment on Counts I, II, and III of their First Amended Complaint (ECF No. 104). There are no genuine disputes as to any material fact, and Plaintiff States are entitled to judgment as a matter of law.

Plaintiff States specifically request the following relief against the Defendants, their officers, agents, employees, and attorneys:

1. A declaratory judgment that DACA is procedurally unlawful under the Administrative Procedure Act (“APA”);

2. A declaratory judgment that DACA is substantively unlawful under the APA;
3. A declaratory judgment that the Deferred Action for Childhood Arrivals (“DACA”) program violates the Take Care Clause of the United States Constitution; and
4. An order setting aside the 2012 memorandum and preventing the Federal Defendants from issuing any new grant of deferred action status pursuant to the DACA program and any renewal of deferred action status pursuant to DACA.

In support of this Motion, Plaintiff States adopt and incorporate by reference, as if fully stated herein, the arguments presented in support of their motion for preliminary injunction and first amended complaint, ECF Nos. 5, 104, 218, 282, and 306, as well as the evidence offered in support, ECF Nos. 6, 7, 8, 9, 219-1 through 219-22, 284-1 through 284-25, and 290-1, and ask the Court to consider those filings and evidence in support of this Motion.

A brief in support of this Motion satisfying the requirements of Local Rule 7.1 and Judge’s Procedure 7(J), an Appendix, and a proposed order and judgment are filed contemporaneously with this Motion.

Wherefore, the Plaintiff States respectfully request that judgment be entered in their favor and against Defendants.

February 4, 2019

STEVE MARSHALL
Attorney General of Alabama

LESLIE RUTLEDGE
Attorney General of Arkansas

DEREK SCHMIDT
Attorney General of Kansas

JEFF LANDRY
Attorney General of Louisiana

DOUGLAS J. PETERSON
Attorney General of Nebraska

ALAN WILSON
Attorney General of South Carolina

PATRICK MORRISEY
Attorney General of West Virginia

Respectfully submitted.

KEN PAXTON
Attorney General of Texas

JEFFREY C. MATEER
First Assistant Attorney General

BRANTLEY STARR
Deputy First Assistant Attorney General

RYAN L. BANGERT
Deputy Attorney General for Legal Counsel

/s/ Todd Lawrence Disher
TODD LAWRENCE DISHER
Attorney-in-Charge
Trial Counsel for Civil Litigation
Tx. State Bar No. 24081854
Southern District of Texas No. 2985472
Tel.: (512) 463-2100; Fax: (512) 936-0545
todd.disher@oag.texas.gov
P.O. Box 12548
Austin, Texas 78711-2548

MICHAEL TOTH
Special Counsel for Civil Litigation

ADAM ARTHUR BIGGS
Assistant Attorney General

COUNSEL FOR PLAINTIFF STATES

CERTIFICATE OF SERVICE

I certify that on February 4, 2019, this document was electronically filed with the Clerk of the Court using the CM/ECF system, which will send notification of such filing to all counsel of record.

/s/ Todd Lawrence Disher
TODD LAWRENCE DISHER
Trial Counsel for Civil Litigation

COUNSEL FOR PLAINTIFF STATES

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**ORDER GRANTING PLAINTIFF STATES'
MOTION FOR SUMMARY JUDGMENT**

This matter came before the Court on Plaintiff States' Motion for Summary Judgment on Counts I, II, and III of their First Amended Complaint (ECF No. 104). After reviewing the briefing on the matter, the evidence properly offered in support of Plaintiff States' Motion for Summary Judgment, and all other matters properly before the Court, the Court finds that there are no genuine issues of material fact and that Plaintiff States are entitled to judgment as a matter of law.

The Court concludes that the Deferred Action for Childhood Arrivals ("DACA") program violates both procedural and substantive requirements of the

Administrative Procedure Act, 5 U.S.C. §§ 553, 706, as well as the Take Care Clause of the United States Constitution, U.S. Const. art. II, § 3.

Accordingly, **IT IS HEREBY ORDERED, ADJUDGED, and DECREED** that that Plaintiff States' Motion for Summary Judgment is granted and the 2012 memorandum that created the DACA program is set aside.

SO ORDERED on this ____ day of _____, 2019.

Andrew S. Hanen,
U.S. District Court Judge